

App. Serial No.: 09/405,608

Atty. Docket No.: 0010-011

**REMARKS**

These remarks are in response to the Examiner Interview held August 13, 2004 and the Final Office Action mailed March 10, 2004. A Notice of Appeal was filed on July 12, 2004. This response, along with a Request for Continued Examination, is filed within two months of the filing of the Notice of Appeal. Therefore, no extension of time is required.

**Examiner Interview**

An interview was held between Examiner William C. Vaughn and Applicants' attorney, Larry E. Henneman, Jr. on August 3, 2004. During the interview, Applicants' attorney explained Applicants' invention in some detail and pointed out differences between Applicants' invention and the Krishan (US 6,115,755) reference and the Farber et al. (US 6,185,598) reference. The differences pointed out by Applicants' attorney were substantially the same as those presented in Applicants' prior response.

Applicants' attorney then requested an explanation as to how the proposed Krishan-Farber combination would operate. Applicants' attorney also requested an explanation and/or clarification of the suggestion/motivation to combine the references set forth in the prior office action. The Examiner did not provide an explanation/clarification of the suggestion to combine the references or how the references would be combined. The Examiner indicated that he needed additional time to consider both issues, and that he would provide the explanation/clarification in a follow-up telephone conference.

The follow-up telephone conference was held on August 13, 2004. The Examiner indicated that he had reviewed the case thoroughly, and that he was of the opinion that Claims 5 and 17 contained subject matter that was patentable over the prior art of record. Applicants' attorney indicated that he would seek Applicants' approval for amendments to the independent claims of the application to incorporate the subject matter of one of Claims 5 or 17 (including any intermediate claims) in order to expedite the allowance of the present application. The Examiner indicated that such amendments would render the claims allowable over the prior art of record, but that an updated search would be required prior to allowance of the case. Because agreement was reached with respect to amendments that would overcome the prior art of record, the requested clarification of the Krishan-Farber combination was no longer required, and was not provided.

App. Serial No.: 09/405,608  
Atty. Docket No.: 0010-011

### Claims

Claims 1-47 are pending in the above-identified application. Claims 1-47 are rejected over prior art. Claims 1, 6, 11, and 39 are amended and Claims 48-53 are added. Claims 2-5, 8-10, 21-24, 27-29, and 45 are canceled. Claims 7, 12-20, 25-26, 30-38, 40-44, and 46-47 remain as filed. Reconsideration is requested.

### Rejections Under 35 U.S.C. § 103

Claims 1, 2, 8, 9, 11-12, 16-21, 27-28, 30-31, and 35-38 are rejected under 35 U.S.C. § 103 as being unpatentable over Farber et al. (USPN 6,185,598) in view of Krishan (USPN 6,115,755). Claims 3-7, 10, 13-15, 22-26, and 32-34 are rejected under 35 U.S.C. § 103 as being unpatentable over Farber et al. in view of Krishan and further in view of Cohen et al. (USPN 6,389,462).

Claim 1 is amended herein to include the limitations of Claims 2-5, and Claims 2-5 are canceled. Claims 8-10, 21-24, and 27-29 are also canceled herein, thereby obviating the rejections of those claims. Claims 6 and 11 are amended to depend directly from Claim 1.

As stated in the interview summary above, Claim 5 was indicated by the Examiner to include subject matter that is allowable over the prior art of record. Accordingly, Applicants believe that Claim 1 now distinguishes over the prior art of record because it includes the limitations of Claims 2-5. Claim 1 should now be in condition for allowance, pending an updated search.

Claims 6-7, 11-20, 25-26, and 30-38 depend either directly or indirectly from Claim 1, and are distinguished from the cited prior art at least the same reasons as Claim 1.

Claims 39-47 are rejected under 35 U.S.C. § 103 as being unpatentable over Krishan in view of Farber et al.

Claim 39 is amended herein to include limitations that are similar to those found in original Claims 2-5. Claim 45 is canceled.

As stated in the interview summary above, Claim 5 was indicated by the Examiner to include subject matter that distinguished over the prior art of record. Therefore, Claim 39 now

App. Serial No.: 09/405,608

Atty. Docket No.: 0010-011

also distinguishes over the prior art of record, because it includes limitations similar to those of Claim 5 (including intervening claims 2-4). Claim 39 is now in condition for allowance.

Claims 40-44 and 46-47 depend either directly or indirectly from Claim 39 and are, therefore, distinguished from the cited prior art for at least the same reasons as Claim 39.

For the above reasons Applicants request reconsideration and withdrawal of the rejections under 35 U.S.C. § 103.

#### New Claims

New Claims 48-53 are added.

Claim 48 combines limitations similar to those of previously amended Claim 39 and original Claim 17. As stated in the interview summary above, Claim 17 was indicated by the Examiner to include subject matter that distinguishes over the prior art of record. Therefore, new Claim 48 also distinguishes over the prior art of record and should be in condition for allowance. New Claim 49 depends from Claim 48 and is allowable for at least the same reasons as new Claim 48.

Claim 50 combines limitations similar to those of previously amended Claim 1 and original Claim 17. As stated in the interview summary above, Claim 17 was indicated by the Examiner to include subject matter that distinguishes over the prior art of record. Therefore, new Claim 50 also distinguishes over the prior art of record and should be in condition for allowance. New Claim 51 depends from Claim 50, and Claims 52-53 are "computer-readable medium" claims that depend directly from Claims 50 and 51, respectively. Therefore, Claims 51-53 also distinguish over the prior art of record for at least the same reasons as Claim 50.

#### Obviousness-Type Double Patenting

Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting over Claims 1 and 15 of U.S. Patent No. 6,308,238. Claim 39 is rejected under the judicially created doctrine of obviousness-type double patenting over Claims 43 and 49 of U.S. Patent No. 6,308,238.

A Terminal Disclaimer is filed herewith in order to obviate the obviousness-type double patenting rejections of Claims 1 and 39 over U.S. Patent No. 6,308,238, and to expedite the allowance of the present application. Applicants do not acquiesce in the propriety of the

App. Serial No.: 09/405,608

Atty. Docket No.: 0010-011

obviousness-type double patenting rejections at least for the reasons set forth in Applicants' prior responses (see for example the responses filed on December 19, 2003 and April 2, 2003).

For the foregoing reasons, Applicants believe Claims 1, 6-7, 11-20, 25-26, 30-44, and 46-53 are in condition for allowance. Should the Examiner undertake any action other than allowance of Claims 1, 6-7, 11-20, 25-26, 30-44, and 46-53, or if the Examiner has any questions or suggestions for expediting the prosecution of this application, the Examiner is requested to contact Applicants' attorney at (269) 279-8820.

Respectfully submitted,

Date:

9/10/04

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**CERTIFICATE OF FACSIMILE TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being transmitted via facsimile, on the date shown below, to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, at (703) 872-9306.

Date:

9/10/04

Larry E. Henneman, Jr.